

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CHRISTINE FINGER,

Plaintiff,

v.

UNITED AIRLINES, INC.,

Defendant.

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No. 4:20-cv-04205

**PLAINTIFF’S RESPONSE AND OPPOSITION TO DEFENDANT’S MOTION TO
QUASH DEPOSITION NOTICES AND FOR PROTECTIVE ORDER AND
MOTION TO COMPEL¹**

United Airlines, Inc. (“United”) has requested that this Court quash the deposition notice of Aleta Stansberry, a current United employee. United’s motion should be denied, and the Court should compel United to produce Aleta Stansberry for her deposition on December 30th or on an alternative date.

I.

Plaintiff and her prior counsel, Evan Lange, filed this lawsuit on December 12, 2020 claiming that her 35 year employment with United was terminated due to her age, over forty (40), her disability, and in retaliation for complaining about age discrimination in violation of Age Discrimination in Employment Act, 29 U.S.C. §§ 621 *et seq.*, Texas Labor Code § 21.001

¹ Plaintiff’s Response and Opposition to Defendant’s Motion to Quash and Motion to Compel is filed in conjunction with her counsels’ Opposed Motion to Withdraw as Counsel and Motion to Continue. (Mot. to Withdraw (Doc. 102).).

et seq., Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12111, *et seq.*, as amended. (See generally, Pl.'s 1st Am. Compl. (Doc. 1).). United does not deny that it is liable to Finger. In fact, it has not answered, and the deadline to do so expired long ago. (Pl's Mot. for Partial Judgment on the Pleadings (Doc. 100).)

On October 25, 2024, Curt Hesse of Moore & Associates filed a Notice of Appearance on behalf of Plaintiff. (Ntc. of Appearance. (Doc. 92).). Shortly after the undersigned appeared in the case, Defendant filed a Motion for Summary Judgment on November 15, 2024 (Mot. Summ. Judgment (Doc. 94).) On December 4, 2024, Plaintiff filed an Unopposed Motion for Extension of Time to respond to the Motion for Summary Judgment because the parties agreed to hold off incurring the expense of taking the remaining depositions and attend mediation. The Court granted Plaintiff's motion and the current deadline for Plaintiff to respond to Defendant's Motion for Summary Judgment is January 15, 2025. (Order (Doc. 98).) Because Defendant failed to file an answer, it is in default and has admitted the essential allegations in Plaintiff's First Amended Complaint. Plaintiff filed a Request for Entry of Default and Motion for Judgment on the Pleadings on December 16, 2024. (Request for Entry of Default (Doc. 99); Pl's Mot. for Partial Judgment on the Pleadings (Doc. 100).).

On December 18, 2024, the parties attended mediation that ended in an impasse. Following the impasse, On December 18, 2024, Plaintiff has served deposition notices of witnesses to occur on December 30th and 31st of 2024, inside of the current December 31, 2024 discovery deadline. (Scheduling Order (Doc. 90).). These depositions are necessary for Plaintiff to adequately respond to the pending motion for summary judgment.

Plaintiff originally served a deposition notice for Elizabeth Hibbard for December 30, 2024 upon United. Ms. Hibbard is not under the control of United; therefore, Plaintiff has properly issued a subpoena to Ms. Hibbard for her December 30th deposition. Additionally, Plaintiff served a deposition notice for Aleta Stansberry, a current employee of United, upon United's counsel for her deposition on December 31, 2024.

On December 19, 2024, United file a Motion to Quash Deposition Notices and for Protective Order of Plaintiff's deposition notices of Ms. Stansberry and Ms. Hibbard because: 1) Ms. Hibbard is not under United's control; 2) 13 days' notice for the depositions was not sufficient notice for the depositions; and 3) that neither Ms. Stansberry nor United's counsel are not available on December 31st. Defendant's motion is moot vis-à-vis the deposition notice of Ms. Hibbard. As soon as Plaintiff's counsel learned that Ms. Hibbard was not under United's control, a subpoena for her deposition on December 30th was issued and Ms. Hibbard was served on December 20, 2024.

While Ms. Stansberry's and United had an ample 13 days' notice of her December 31st deposition, United is attempting to refuse Plaintiff the opportunity to depose Ms. Stansberry altogether instead of providing an alternative date, as the parties are allowed to do pursuant to the Court's Scheduling Order. United failed to confer with Plaintiff's counsel prior to filing this motion, including offering alternative dates. FRCP 26(c)(1) requires that the movant on a motion for protection, include a certificate of conference, demonstrating its good faith efforts to resolve the dispute with opposing counsel without court action. Because United failed to confer with opposing counsel, including offering alternative dates for Ms. Stansberry, and has

not demonstrated good cause for the protective order, United's motion should be denied and United should be compelled to produce Ms. Stansberry for her deposition on either December 31st or an alternative day agreed upon by the parties.

Respectfully Submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

As required by Fed. R. Civ. P. 5(a)(1), I certify that I served this document on all parties or their attorney(s) of record—who are listed below—in accordance with Fed. R. Civ. P. 5(b) as follows:

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- ☐ mail
- ☐ personal delivery
- ☐ leaving it at ☐ office ☐ dwelling
- ☐ leaving it with court clerk
- ☐ electronic means
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- ☐ leaving it with court clerk
- ☒ electronic means
- ☐ other means
- ☐ CM/ECF system

December 20, 2024

Date


Melissa Moore